

House Bill 1020 (COMMITTEE SUBSTITUTE)

By: Representatives Parrish of the 156th and Rynders of the 152nd

A BILL TO BE ENTITLED

AN ACT

To amend Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to county sales and use taxes, so as to provide for the comprehensive revision of the sales and use tax for educational purposes; to establish special districts; to provide for definitions, procedures, conditions, and limitations for the imposition, collection, disbursement, and termination of the tax; to provide for powers, duties, and authority of the state revenue commissioner; to provide for related matters; to provide for a contingent effective date; to provide for applicability; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to county sales and use taxes, is amended by revising Part 2, relating to the sales tax for educational purposes, as follows:

"Part 2

48-8-140.

This part is enacted pursuant to the authority of Article VIII, Section VI, Paragraph IV of the Constitution of Georgia and it is the intent of the General Assembly in the enactment of this part to further define and implement such provision of the Constitution.

~~48-8-141.~~

~~Except as otherwise expressly provided in Article VIII, Section VI, Paragraph IV of the Constitution of Georgia, the sales tax for educational purposes which may be levied by a board of education of a county school district or concurrently by the board of education of a county school district and the board of education of each independent school district located within such county, shall be imposed and levied by such board or boards of~~

~~education and collected by the commissioner on behalf of such board or boards of education in the same manner as provided for under Part 1 of this article and the provisions of Part 1 of this article in particular, but without limitation, the provisions regarding the authority of the commissioner to administer and collect this tax, retain the 1 percent administrative fee, and promulgate rules and regulations governing this tax shall apply equally to such board or boards of education.~~

~~48-8-142.~~

~~If general obligation debt is to be issued in conjunction with the imposition of the sales tax for educational purposes authorized by Article VIII, Section VI, Paragraph IV of the Constitution, the resolution or concurrent resolutions imposing such tax shall specify the principal amount of the debt to be issued, the purpose for which the debt is to be issued, the interest rate or rates or the maximum interest rate or rates which such debt is to bear, and the amount of principal to be paid in each year during the life of the debt. If such general obligation debt is to be issued, the ballot shall have written or printed thereon, in addition to the descriptions required by Article VIII, Section VI, Paragraph IV(c) of the Constitution, the following:~~

~~'If imposition of the tax is approved by the voters, such vote shall also constitute approval of the issuance of general obligation debt of _____ in the principal amount of \$ _____ for the above purpose.'~~

~~48-8-143.~~

~~The net proceeds of the sales tax for educational purposes shall be distributed in the manner provided under Article VIII, Section VI, Paragraph IV(g) of the Constitution unless another distribution formula is provided for by the enactment of a local Act. Any such local Act providing for an alternate distribution formula shall not be amended during the time period for which the tax was imposed.~~

~~48-8-144.~~

~~(a) As used in this Code section, the term:~~

~~(1) 'Local charter school' means a local charter school as defined in paragraph (7) of Code Section 20-2-2062.~~

~~(2) 'State chartered special school' means a state chartered special school as defined in paragraph (16) of Code Section 20-2-2062 and with respect to which the referendum required under Article VIII, Section V, Paragraph VII of the Constitution has been conducted and approved.~~

~~(b) A county or independent board of education shall be authorized to include local charter schools, state chartered special schools, or both as capital outlay projects in projects specified in the ballot language for a proposed tax under Article VIII, Section VI, Paragraph IV of the Constitution and this part.~~

48-8-141.

As used in this part, the term:

(1) 'Building and construction materials' means all building and construction materials, supplies, fixtures, or equipment, any combination of such items, and any other leased or purchased articles when the materials, supplies, fixtures, equipment, or articles are to be utilized or consumed during construction or are to be incorporated into construction work pursuant to a bona fide written construction contract.

(2) 'Dealer' means a dealer as defined in paragraph (3) of Code Section 48-8-2.

(3) 'Local charter school' means a local charter school as defined in paragraph (7) of Code Section 20-2-2062.

(4) 'State chartered special school' means a state chartered special school as defined in paragraph (16) of Code Section 20-2-2062 and with respect to which the referendum required under Article VIII, Section V, Paragraph VII of the Constitution has been conducted and approved.

48-8-142.

(a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state education special districts. The geographical boundary of an education special district shall be as follows:

(1) Such boundary shall be conterminous with the boundary of the county in each county in which no independent school district is located; or

(2) In each county in which one or more independent school districts are located, such boundary shall be conterminous with the boundary of the county but shall only be so constituted upon the adoption of a concurrent resolution of the board of education of the county school district and the board of education of each independent school district located within such county.

(b) When the imposition of a special district sales and use tax for educational purposes is authorized according to the procedures provided in this part within a special district, the local board or boards, as appropriate, of education may, subject to the requirement of referendum approval and the other requirements of this part, impose within the special district for a limited period of time a special sales and use tax which shall be known as the special district sales and use tax for education purposes.

(c) Any tax imposed under this part shall be at the rate of 1 percent. Except as to rate, a tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this part, except that a tax imposed under this part shall apply to sales of motor fuels as that term is defined by Code Section 48-9-2 and shall be applicable to the sale of food and beverages as provided for in division (57)(D)(i) of Code Section 48-8-3.

48-8-143.

Local charter schools, state chartered special schools, or both may be included as capital outlay projects in projects specified in the ballot language for a proposed tax under Article VIII, Section VI, Paragraph IV of the Constitution and this part.

48-8-144.

(a) The board of education of a school district in a county in which no independent school district is located voting to impose the tax authorized by this part within the special district shall notify the county superintendent by forwarding to the superintendent a copy of the resolution calling for the imposition of the tax. Such resolution shall specify the capital outlay projects for educational purposes for which the proceeds of the tax are to be used and may be expended, if applicable, and specify:

(1) The maximum period of time, to be stated in calendar years or calendar quarters and not to exceed five years;

(2) The maximum cost of the capital outlay projects for educational purposes which will be funded from the proceeds of the tax, which maximum cost shall also be the maximum amount of net proceeds to be raised by the tax;

(3) If general obligation debt is to be issued in conjunction with the imposition of the tax, the principal amount of the debt to be issued, the purpose for which the debt is to be issued, the interest rate or rates or the maximum interest rate or rates which such debt is to bear, and the amount of principal to be paid in each year during the life of the debt; and

(4) The maximum amount of net proceeds to be expended on educational maintenance and operations, if applicable, and the amount of proceeds to be used to roll back the millage rate, if applicable.

(b) Upon receipt of the resolution, the election superintendent shall issue the call for an election for the purpose of submitting the question of the imposition of the tax to the voters of the special district. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. The election superintendent shall cause the date and purpose of the election to be published once per

week for four weeks immediately preceding the date of the election in the official organ of the county. If general obligation debt is to be issued in conjunction with the imposition of the tax, the notice published by the election superintendent shall also include, in such form as may be specified by the board of education, the principal amount of the debt, the purpose for which the debt is to be issued, the rate or rates of interest or the maximum rate or rates of interest the debt will bear, and the amount of principal to be paid in each year during the life of the debt; and such publication of notice by the election superintendent shall take the place of the notice otherwise required by Code Section 36-80-11 or by subsection (b) of Code Section 36-82-1, which notice shall not be required.

(c)(1) The ballot shall have written or printed thereon the applicable parts of the following:

'() YES Shall a 1 percent sales and use tax for educational purposes in the education special district consisting of _____ County be imposed for the following capital outlay purposes (list purposes here) for a period of time not to exceed _____ and for the raising of not more than \$ _____ and for the raising of not more than \$ _____ for educational maintenance and operations and not more than \$ _____ for a millage rate reduction?

(2) If general obligation debt is to be issued in conjunction with the imposition of the sales and use tax for educational purposes under paragraph (1) of this subsection, the resolution calling for the imposition of such tax shall specify the principal amount of the debt to be issued, the purpose for which the debt is to be issued, the interest rate or rates or the maximum interest rate or rates which such debt is to bear, and the amount of principal to be paid in each year during the life of the debt. If such general obligation debt is to be issued, the ballot shall also have written or printed thereon the following:

'If imposition of the tax is approved by the voters, such vote shall also constitute approval of the issuance of general obligation debt of _____ in the principal amount of \$ _____ for the above purpose.'

(d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in favor of imposing the tax then the tax shall be imposed as provided in this part; otherwise the tax shall not be imposed and the question of imposing the tax shall not again be submitted to the voters of the special district until after 12 months immediately following the month in which the election was held. The election superintendent shall hold and conduct the election under the same rules and regulations as govern special elections. The superintendent shall canvass the returns, declare the result of the election, and certify the

result to the Secretary of State and to the commissioner. The expense of the election shall be paid from board of education funds.

(e)(1) If the proposal includes the authority to issue general obligation debt and if more than one-half of the votes cast are in favor of the proposal, then the authority to issue such debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given to the proper officers of the board of education; otherwise, such debt shall not be issued. If the authority to issue such debt is so approved by the voters, then such debt may be issued without further approval by the voters.

(2) If the issuance of general obligation debt is included and approved as provided in this Code section, then the board of education of the special district may incur such debt either through the issuance and validation of general obligation bonds or through the execution of a promissory note or notes or other instrument or instruments. If such debt is incurred through the issuance of general obligation bonds, such bonds and their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as specifically provided otherwise in this part. If such debt is incurred through the execution of a promissory note or notes or other instrument or instruments, no validation proceedings shall be necessary and such debt shall be subject to Code Sections 36-80-10 through 36-80-14 except as specifically provided otherwise in this part. In either event, such general obligation debt shall be payable first from the separate account in which are placed the proceeds received by the county from the tax authorized by this part. Such general obligation debt shall, however, constitute a pledge of the full faith, credit, and taxing power of the board of education; and any liability on such debt which is not satisfied from the proceeds of the tax authorized by this part shall be satisfied from the general funds of the board of education.

48-8-145.

(a) The board of education of a county school district and the board of education of each independent school district located within such county voting to impose the tax authorized by this part within the special district shall notify the county superintendent by forwarding to the superintendent a copy of the concurrent resolution calling for the imposition of the tax. Such concurrent resolution shall specify the capital outlay projects for educational purposes for which the proceeds of the tax are to be used and may be expended, if applicable, and specify:

(1) For the county school district:

(A) The maximum period of time, to be stated in calendar years or calendar quarters and not to exceed five years;

(B) The maximum cost of the capital outlay projects for educational purposes for the county school district which will be funded from the proceeds of the tax;

(C) If general obligation debt is to be issued for the county school district in conjunction with the imposition of the tax, the principal amount of the debt to be issued, the purpose for which the debt is to be issued, the interest rate or rates or the maximum interest rate or rates which such debt is to bear, and the amount of principal to be paid in each year during the life of the debt; and

(D) The maximum amount of net proceeds to be expended on educational maintenance and operations for the county school district, if applicable, and the amount of proceeds to be used to roll back the millage rate, if applicable.

(2) For the independent school district:

(A) The maximum period of time, to be stated in calendar years or calendar quarters and not to exceed five years, which shall be the same as provided for the county school district under the concurrent resolution;

(B) The maximum cost of the capital outlay projects for educational purposes for the independent school district which will be funded from the proceeds of the tax;

(C) If general obligation debt is to be issued for the independent school district in conjunction with the imposition of the tax, the principal amount of the debt to be issued, the purpose for which the debt is to be issued, the interest rate or rates or the maximum interest rate or rates which such debt is to bear, and the amount of principal to be paid in each year during the life of the debt; and

(D) The maximum amount of net proceeds to be expended on educational maintenance and operations for the independent school district, if applicable, and the amount of proceeds to be used to roll back the millage rate, if applicable.

(b) Upon receipt of the concurrent resolution, the election superintendent shall issue the call for an election for the purpose of submitting the question of the imposition of the tax to the voters of the special district. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. The election superintendent shall cause the date and purpose of the election to be published once per week for four weeks immediately preceding the date of the election in the official organ of the county. If general obligation debt is to be issued in conjunction with the imposition of the tax, the notice published by the election superintendent shall also include, in such form as may be specified by the board or boards of education, the principal amount of the debt, the purpose for which the debt is to be issued, the rate or rates of interest or the maximum rate or rates of interest the debt will bear, and the amount of principal to be paid in each year during the life of the debt; and such publication of notice by the election superintendent shall take the place of the notice otherwise required by Code

235 Section 36-80-11 or by subsection (b) of Code Section 36-82-1, which notice shall not be
 236 required.

237 (c)(1) The ballot shall have written or printed thereon the applicable parts of the
 238 following:

239 '☐ YES Shall a 1 percent sales and use tax for educational purposes in the
 240 education special district consisting of _____ County be
 241 ☐ NO imposed for the raising of not more than \$ _____ for the following
 242 capital outlay purposes (list purposes here) for the board of education
 243 of _____ County and for the raising of not more than \$ _____ for
 244 the following capital outlay purposes (list purposes here) of the board
 245 of education of the independent school district of the City of _____
 246 for a period of time not to exceed _____ and for the raising of
 247 not more than \$ _____ for educational maintenance and operations and
 248 not more than \$ _____ for a millage rate reduction for the board of
 249 education of _____ County and for the raising of not more than
 250 \$ _____ for educational maintenance and operations and not more
 251 than \$ _____ for a millage rate reduction for the independent school
 252 district of the City of _____?'

253 (2) If general obligation debt is to be issued in conjunction with the imposition of the sales
 254 and use tax for educational purposes under paragraph (1) of this subsection, the concurrent
 255 resolution imposing such tax shall specify separately for each board of education as
 256 applicable, the principal amount of the debt to be issued, the purpose for which the debt is
 257 to be issued, the interest rate or rates or the maximum interest rate or rates which such debt
 258 is to bear, and the amount of principal to be paid in each year during the life of the debt.
 259 If such general obligation debt is to be issued, the ballot shall also have written or printed
 260 thereon the applicable parts of the following:

261 'If imposition of the tax is approved by the voters, such vote shall also constitute
 262 approval of the issuance of general obligation debt of the board of education of
 263 _____ County in the principal amount of \$ _____ for the above purpose and
 264 approval of the issuance of general obligation debt of the board of education of the
 265 independent school district of the City of _____ in the principal amount of
 266 \$ _____ for the above purpose.'

267 (d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons
 268 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in
 269 favor of imposing the tax then the tax shall be imposed as provided in this part; otherwise
 270 the tax shall not be imposed and the question of imposing the tax shall not again be
 271 submitted to the voters of the special district until after 12 months immediately following

the month in which the election was held. The election superintendent shall hold and conduct the election under the same rules and regulations as govern special elections. The superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be paid from board of education funds.

(e)(1) If the proposal includes the authority to issue general obligation debt and if more than one-half of the votes cast are in favor of the proposal, then the authority to issue such debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given to the proper officers of the board or boards of education; otherwise, such debt shall not be issued. If the authority to issue such debt is so approved by the voters, then such debt may be issued without further approval by the voters.

(2) If the issuance of general obligation debt is included and approved as provided in this Code section, then the board or boards of education of the special district may incur such debt either through the issuance and validation of general obligation bonds or through the execution of a promissory note or notes or other instrument or instruments. If such debt is incurred through the issuance of general obligation bonds, such bonds and their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as specifically provided otherwise in this part. If such debt is incurred through the execution of a promissory note or notes or other instrument or instruments, no validation proceedings shall be necessary and such debt shall be subject to Code Sections 36-80-10 through 36-80-14 except as specifically provided otherwise in this part. In either event, such general obligation debt shall be payable first from the separate account in which are placed the proceeds received by the county from the tax authorized by this part. Such general obligation debt shall, however, constitute a pledge of the full faith, credit, and taxing power of the board of education; and any liability on such debt which is not satisfied from the proceeds of the tax authorized by this part shall be satisfied from the general funds of the board of education.

48-8-146.

(a) If the imposition of the tax authorized by this part is approved at the special election, the tax shall be imposed on the first day of the next succeeding calendar quarter which begins more than 80 days after the date of the election at which the tax was approved by the voters; provided, however, for services which are regularly billed on a monthly basis, the resolution shall become effective with respect to and the tax shall apply to services billed on or after such effective date.

(b) The tax authorized by this part shall cease to be imposed on the earliest of the following dates:

(1) If the resolution calling for the imposition of the tax provided for the issuance of general obligation debt and such debt is the subject of validation proceedings, as of the end of the first calendar quarter ending more than 80 days after the date on which a court of competent jurisdiction enters a final order denying validation of such debt;

(2) On the final day of the maximum period of time specified for the imposition of the tax; or

(3) As of the end of the calendar quarter during which the commissioner determines that the tax will have raised revenues sufficient to provide to the board of education net proceeds equal to or greater than the total aggregate amount specified as the maximum amount of net proceeds to be raised by the tax by the board or boards of education, as appropriate.

(c)(1) At any time, no more than a single 1 percent tax authorized by this part may be imposed within a special district.

(2) The board of education or boards of education, as appropriate, within a special district in which a tax authorized by this part is in effect may, while the tax is in effect, adopt a resolution or concurrent resolution, as appropriate, calling for the reimposition of a tax authorized by this part upon the termination of the tax then in effect; and a special election may be held for this purpose while the tax is in effect. Proceedings for the reimposition of a tax shall be in the same manner as proceedings for the initial imposition of the tax, but the newly authorized tax shall not be imposed until the expiration of the tax then in effect; provided, however, that in the event of emergency conditions under which the board or boards of education are unable to conduct a referendum so as to continue the tax then in effect without interruption, the commissioner may, if feasible administratively, waive the limitations of subsection (a) of this Code section to the minimum extent necessary so as to permit the reimposition of a tax, if otherwise approved as required under this Code section, without interruption, upon the expiration of the tax then in effect.

(3) Following the expiration of a tax authorized by this part, the board or boards of education, as appropriate, may initiate proceedings for the reimposition of such tax in the same manner as provided in this part for initial imposition of such tax.

48-8-147.

A tax levied pursuant to this part shall be exclusively administered and collected by the commissioner for the use and benefit of the board or boards of education within the special district imposing the tax. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter; provided, however, that all moneys collected from

each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state; and provided, further, that the commissioner may rely upon a representation by or on behalf of the board or boards of education, as appropriate, or the Secretary of State that such a tax has been validly imposed, and the commissioner and the commissioner's agents shall not be liable to any person for collecting any such tax which was not validly imposed. Dealers shall be allowed a percentage of the amount of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

48-8-148.

Each sales tax return remitting taxes collected under this part shall separately identify the location of each retail establishment at which any of the taxes remitted were collected and shall specify the amount of sales and the amount of taxes collected at each establishment for the period covered by the return in order to facilitate the determination by the commissioner that all taxes imposed by this part are collected and distributed according to situs of sale.

48-8-149.

The proceeds of the tax collected by the commissioner in each special district under this part shall be disbursed as soon as practicable after collection as follows:

(1) One percent of the amount collected shall be paid into the general fund of the state treasury in order to defray the costs of administration; and

(2) Except for the percentage provided in paragraph (1) of this Code section, the remaining proceeds of the tax shall be distributed either to the board of education within the special district for use as authorized under this part if the special district is established under paragraph (1) of subsection (a) of Code Section 48-8-142 or to the boards of education within the special district for use as authorized under this part if a special district is established under paragraph (2) of subsection (a) of Code Section 48-8-142 and, in that event, such distribution shall be in accordance with Article VIII, Section VI, Paragraph IV(i) of the Constitution.

48-8-150.

The board of education of a school district receiving any proceeds of the tax may adjust annually the millage rate for ad valorem taxation of tangible property within such political subdivision as provided in this Code section. The board of education may compute the

millage rate necessary to produce revenue from taxation of tangible property in that school district which, when combined with other revenues reasonably expected to be received by the school district during the year other than revenues derived from the tax imposed pursuant to this part, would provide revenues sufficient to defray the expenses of the school district for the year. Such millage rate may then be reduced by a millage rate which, if levied against the tangible property within the school district, would produce an amount equal to the distribution of the proceeds of the tax imposed by this part which were received by the school district during the preceding year. The board of education may provide for an alternative method or methods of computing a millage reduction which may result in a lesser reduction than would be derived under the manner authorized under this subsection. The tax authority of such school district shall cause to be shown in a prominent manner on the tax bill of each ad valorem taxpayer the dollar amount of reduction of ad valorem property taxes which the taxpayer has received as a result of any millage rate reduction under this subsection; provided, however, that the dollar amount of reduction of ad valorem property taxes shall not be calculated or shown on those forms used for the registration and taxation of motor vehicles or trailers.

48-8-151.

Where a local sales or use tax has been paid with respect to tangible personal property by the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction outside the state, the tax may be credited against the tax authorized to be imposed by this part upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due under this part, the purchaser shall pay an amount equal to the difference between the amount paid in the other tax jurisdiction and the amount due under this part. The commissioner may require such proof of payment in another local tax jurisdiction as he or she deems necessary and proper. No credit shall be granted, however, against the tax imposed under this part for tax paid in another jurisdiction if the tax paid in such other jurisdiction is used to obtain a credit against any other local sales and use tax levied in the county or municipality or in a special district which includes the county or municipality.

48-8-152.

No tax provided for in this part shall be imposed upon the sale of tangible personal property which is ordered by and delivered to the purchaser at a point outside the geographical area of the county in which the tax is imposed regardless of the point at which title passes if the delivery is made by the seller's vehicle, United States mail, or common

412 carrier or by private or contract carrier licensed by the Interstate Commerce Commission
413 or the Georgia Public Service Commission.

414 48-8-153.

415 No tax provided for in this part shall be imposed upon the sale or use of building and
416 construction materials when the contract pursuant to which the materials are purchased or
417 used was advertised for bid prior to the voters' approval of the levy of the tax and the
418 contract was entered into as a result of a bid actually submitted in response to the
419 advertisement prior to approval of the levy of the tax.

420 48-8-154.

421 The commissioner shall have the power and authority to promulgate such rules and
422 regulations as shall be necessary for the effective and efficient administration and
423 enforcement of the collection of the tax authorized to be imposed by this part.

424 48-8-155.

425 The tax authorized by this part shall be in addition to any other local sales and use tax. The
426 imposition of any other local sales and use tax within a county, municipality, or special
427 district shall not affect the authority of a board of education to impose the tax authorized
428 by this part and the imposition of the tax authorized by this part shall not affect the
429 imposition of any otherwise authorized local sales and use tax within the county,
430 municipality, or special district.

431 48-8-156.

432 (a)(1) The proceeds received from the tax authorized by this part shall be used by the
433 board or boards of education within the special district, as appropriate, exclusively for the
434 purposes specified in the resolution or concurrent resolution calling for imposition of the
435 tax. Such proceeds shall be kept in a separate account from other funds of the board of
436 education receiving proceeds of the tax and shall not in any manner be commingled with
437 other funds of such board of education prior to the expenditure.

438 (2) The board of education receiving any proceeds from the tax shall maintain a record
439 of each and every purpose for which the proceeds of the tax are used. A schedule shall
440 be included in each annual audit which shows for each purpose in the resolution calling
441 for imposition of the tax the original estimated cost, the current estimated cost if it is not
442 the original estimated cost, amounts expended in prior years, and amounts expended in
443 the current year. The auditor shall verify and test expenditures sufficient to provide
444 assurances that the schedule is fairly presented in relation to the financial statements. The

auditor's report on the financial statements shall include an opinion, or disclaimer of opinion, as to whether the schedule is presented fairly in all material respects in relation to the financial statements taken as a whole.

(b) No general obligation debt shall be issued in conjunction with the imposition of the tax authorized by this part unless the board of education determines that, and if the debt is to be validated it is demonstrated in the validation proceedings that, during each year in which any payment of principal or interest on the debt comes due the board of education will receive from the tax authorized by this part net proceeds sufficient to fully satisfy such liability. General obligation debt issued under this part shall be payable first from the separate account in which are placed the proceeds received by the board of education from the tax authorized by this part. Such debt, however, shall constitute a pledge of the full faith, credit, and taxing power of the board of education; and any liability on said debt which is not satisfied from the proceeds of the tax authorized by this part shall be satisfied from the general funds of the board of education.

(c) The resolution or concurrent resolution calling for the imposition of the tax authorized by this part may specify that a part of the proceeds of the tax will be used for payment of general obligation debt issued in conjunction with the imposition of the tax. If the resolution or concurrent resolution so provides, it shall specifically state the other purposes for which such proceeds will be used. In such a case no part of the net proceeds from the tax received in any year shall be used for such other purposes until all debt service requirements of the general obligation debt for that year have first been satisfied from the account in which the proceeds of the tax are placed.

(d) The resolution or concurrent resolution calling for the imposition of the tax may specify that no general obligation debt is to be issued in conjunction with the imposition of the tax. If the resolution or concurrent resolution so provides, it shall specifically state the purpose or purposes for which the proceeds will be used.

(e)(1)(A) If the proceeds of the tax are specified to be used solely for the purpose of payment of general obligation debt issued in conjunction with the imposition of the tax, then any net proceeds of the tax in excess of the amount required for final payment of such debt shall be subject to and applied as provided in paragraph (2) of this subsection.

(B) If a board of education as agent for the special district receives from the tax net proceeds in excess of the maximum cost of the capital outlay projects for education purposes stated in the resolution calling for the imposition of the tax or in excess of the actual cost of such purpose or purposes, then such excess proceeds shall be subject to and applied as provided in paragraph (2) of this subsection.

(C) If the tax is terminated under paragraph (1) of subsection (b) of Code Section 48-8-146 by reason of denial of validation of debt, then all net proceeds received by a

board of education as agent of the special district from the tax shall be excess proceeds subject to paragraph (2) of this subsection.

(2) Excess proceeds subject to this subsection shall be used solely for the purpose of reducing any indebtedness of the board of education within the special district other than indebtedness incurred pursuant to this part. If there is no such other indebtedness or, if the excess proceeds exceed the amount of any such other indebtedness, then the excess proceeds shall next be paid into the general fund of a board of education, it being the intent that any funds so paid into the general fund of a board of education be used for the purpose of reducing ad valorem taxes.

48-8-157.

Each board of education receiving any proceeds from the tax under this part shall maintain a record of each and every purpose for which the proceeds of the tax are used. Not later than December 31 of each year, the board of education receiving any proceeds from the tax under this part shall publish annually, in a newspaper of general circulation in the boundaries of such school system, a simple, nontechnical report which shows for each purpose in the resolution calling for imposition of the tax the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, and amounts expended in the current year. The report shall also include a statement of what corrective action the board of education intends to implement with respect to each purpose which is underfunded or behind schedule and a statement of any surplus funds which have not been expended for a purpose."

SECTION 2.

(a) This Act shall become effective on January 1, 2011; provided, however, that this Act shall only become effective on January 1, 2011, upon the ratification of a resolution at the November, 2010, state-wide general election, which resolution amends the Constitution of the State of Georgia so as to authorize the sales and use tax for educational purposes to be imposed in whole or in part for educational maintenance and operations. If such resolution is not ratified, this Act shall not become effective and shall stand repealed in its entirety on January 1, 2011.

(b) This Act shall apply to taxes imposed or to be imposed under any resolution adopted by a board of education on or after January 1, 2011; and this Act shall not apply to taxes imposed or to be imposed under such resolutions adopted prior to January 1, 2011.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.